

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

BILLY L. ROHWEDDER,

Plaintiff,

v.

ROCKY MOUNTAIN PIES, *et al.*,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:20-cv-00034-JNP-CMR

District Judge Jill N. Parrish

Plaintiff Billy L. Rohwedder (“Plaintiff”), proceeding pro se, sued Defendants Rocky Mountain Pies and Talent Team Staffing. ECF No. 3. Defendant Rocky Mountain Pies filed a Motion to Dismiss (the “Motion”) under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). ECF No. 9. Magistrate Judge Cecilia M. Romero issued a Report and Recommendation that the Motion be granted in part and denied in part without prejudice, and that Plaintiff be granted leave to file an amended complaint. ECF No. 14. Magistrate Judge Romero notified Plaintiff that a failure to file a timely objection to the Report and Recommendation could waive any objections to it. Plaintiff did not file an objection within the allotted time.

Because Plaintiff did not object to the Report and Recommendation, he waived any argument that it was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court will decline to apply the waiver rule only if “the interests of justice so dictate.” *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). The court has reviewed the Report and Recommendation and concludes that it is not clearly erroneous. Thus, the court finds that the interests of justice do not warrant deviation from the waiver rule.

Accordingly, the court ORDERS as follows:

1. The Report and Recommendation (ECF No. 14) is ADOPTED IN FULL.
2. Plaintiff is GRANTED leave to file an amended complaint that complies with the Report and Recommendation (ECF No. 14). Though Plaintiff prematurely filed his Amended Complaint (ECF No. 16) prior to the court's adoption of the Report and Recommendation, the court will treat the Amended Complaint as the operative complaint as of the date of this Order. Plaintiff need not refile his Amended Complaint. Defendants' responsive pleadings are due in twenty-one (21) days, by January 26, 2021.

DATED January 5, 2021

BY THE COURT



Jill N. Parrish
United States District Court Judge